

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

PICTURE PATENTS, LLC.,)

Plaintiff,)

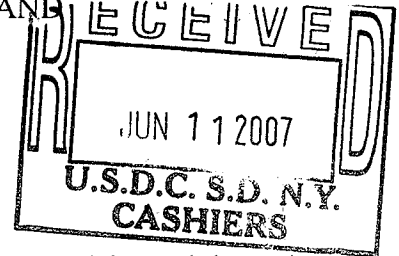
v.)

AEROPOSTALE, INC.)

Defendant.)

Civil Case No. 07 CV 5567

JURY TRIAL DEMAND



COMPLAINT

Plaintiff Picture Patents LLC (hereinafter referred to as "Picture Patents") by and through undersigned counsel hereby bring this Complaint against Defendant Aeropostale, Inc. (hereinafter referred to as "Aeropostale" or "Defendant"), and allege as follows:

THE PARTIES, JURISDICTION AND VENUE

1. Plaintiff Picture Patents LLC is a limited liability company organized and existing under the laws of the State of Delaware, having a principal place of business at 325 Riverside Drive, New York, New York 10025. Picture Patents LLC is a registered foreign limited liability company in the State of New York and is doing business in this State and District.

2. Upon information and belief, Aeropostale, Inc. is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business located at 112 West, 34th Street, 22nd Floor, New York, NY 10120.

3. Upon information and belief, Aeropostale is also a registered foreign corporation in the State of New York. Aeropostale has been and is doing business in the State of New York

and within this District, with a regular and established place of business located at 112 West, 34th Street, 22nd Floor, New York, NY 10120.

4. This action for infringement arises under the patent laws of the United States, including 35 U.S.C. §§ 271, 281 and 283-85, et seq.

5. This Court has jurisdiction over the subject matter of this action on at least the following grounds:

- a. 28 U.S.C. § 1331, this being a civil action arising under the laws of the United States;
- b. 28 U.S.C. § 1337(a), this being a civil action arising under an Act of Congress regulating commerce and protecting trade and commerce; and
- c. 28 U.S.C. § 1338(a), this being a civil action arising under an Act of Congress relating to patent rights.

6. This Court has personal jurisdiction over Defendant because, *inter alia*, upon information and belief, Defendant has conducted business in this State and District and otherwise has committed acts in this State and in this District that are the subjects of and/or related to the claims set forth herein.

7. Venue is properly laid in this Court under the provisions of 28 U.S.C. §§ 1391 and 1400(b).

CLAIMS FOR PATENT INFRINGEMENT

8. On August 21, 2001, United States Patent No. 6,278,455 (“the ’455 patent”) was duly and legally issued for a “Pictorial Interface For Accessing Information In An Electronic File System.” A true and correct copy of the ’455 patent is attached hereto as Exhibit “A” and made a part hereof.

9. Picture Patents LLC is the owner, by assignment, of all right, title, and interest in the ’455 patent. Picture Patents has the right to bring and maintain the present action.

10. Upon information and belief, Defendant manufactures, makes, has made, uses, sells and/or offers for sale devices and/or services that infringe claims in the ’455 patent. Defendant is infringing directly, by inducement, and/or by contributing to the infringement of the ’455 patent by offering, providing, using and operating services through the “www.aeropostale.com” web site, including but not limited to providing a pictorial interface on said website that permits access of electronic files. Aeropostale has committed these acts of infringement throughout the United States, including in this judicial district.

11. Plaintiff has been damaged as a result of Defendant’s infringing conduct.

JURY DEMAND

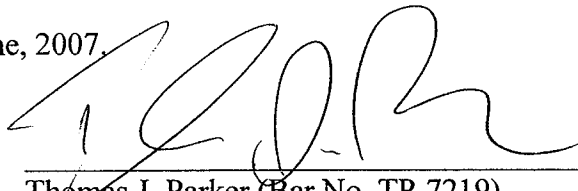
12. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER

13. WHEREFORE, Plaintiff respectfully requests that the Court find in their favor and against Defendant and the Court enter a judgment or order granting Plaintiff the following relief:

- a. That one or more claims of United States Patent No. 6,278,455 have been infringed, either literally and/or under the doctrine of equivalents, by Defendant and/or by others to whose infringement has been contributed to by Defendant and/or by others whose infringement has been induced by Defendant;
- b. That Defendant account for and pay to Plaintiff damages caused by Defendant's infringing activities complained of herein;
- c. That Plaintiff be granted pre-judgment and post-judgment interest at the maximum rate allowable by law on the damages caused by reason of Defendant's infringing activities complained of herein;
- d. That Plaintiff be awarded costs;
- e. That Defendant be permanently enjoined from any conduct or activity that infringes United States Patent No. 6,278,455; and
- f. That Plaintiff be granted such other and further relief, both legal and equitable, as the Court may deem is just and proper under the circumstances.

Respectfully submitted this 11th day of June, 2007.



Thomas J. Parker (Bar No. TP-7219)
ALSTON & BIRD LLP
90 Park Avenue
New York, NY 10016
(212) 210-9400

ATTORNEYS FOR PLAINTIFF